

January 27, 2017



Talbot County Planning Commission
Final Decision Summary

Wednesday, December 7, 2016 at 9:00 a.m.
Bradley Meeting Room
11 N. Washington Street, Easton, Maryland
Wye Oak Room, Community Center
10028 Ocean Gateway, Easton, Maryland

Attendance:

Commission Members:

William Boicourt, Chairman
John N. Fischer, Jr., Vice Chairman
Michael Sullivan
Paul Spies
Phillip "Chip" Councill

Staff:

Elisa Deflaux, Environmental Planner
Carole Sellman, Recording Secretary
Victoria Rachel, Temporary Recording Secretary

1. Call to Order—Commissioner Boicourt called the meeting to order at 9:00 a.m.

2. Decision Summary Review—November 2, 2016—The Commission noted the following corrections to the draft decision summary:

- a. Line 362, is a little confusing, it should read: "The County serves the hotel's septic system, which is directly next to Mr. Shannahan's."
- b. Line 363, clarification helpful, correct to read: "Livingston septic service has been pumping out Mr. Shannahan's septic system on a regular basis."
- c. Line 401, correct to read: "She has a Master's in Public Administration and a Master's in City and Regional Planning, and has worked in County Government and in the public sector for a non-profit."
- d. Line 585, take out the first might, should read; "But some of the smaller vegetation might be a stronger ultimate development."
- e. Line 609, correct to read; "Mr. Pullen said in our particular set up with our revenue cap what will happen is that that property will be excluded from the base."

Commissioner Fischer moved to approve the draft Planning Commission Decision Summary for November 2, 2016, as amended; Commissioner Sullivan seconded the motion. The motion carried unanimously.

3. Old Business—None.

4. New Business

- a. Administrative Variance—Charles Webb, #A230-22601 River Ridge Rd, Bozman, MD 21612, (map 31, grid 14, parcel 370, zoned Rural Conservation), Bill Stagg, Lane Engineering, LLC, Agent.

Elisa Deflaux presented the staff report of the applicant's request for eight separate items. The specific proposed improvements are annotated as follows:

- 1.) 321 sq. ft. of new gross floor area for an "Entrance Hall Connector" expansion on 1st floor of east face of the dwelling, to point not closer than 37 ft. to MHW.
- 2.) 296 sq. ft. "Open Porch and Steps" addition on the 1st floor of the east face of the dwelling (no new gross floor area).
- 3.) 65 sq. ft. "Walkway" from the proposed open porch to the driveway on the east face of the dwelling (no new gross floor area).
- 4.) 319 sq. ft "Open Deck" on west face of dwelling (no new gross floor area and no new lot coverage)
- 5.) 410 sq. ft. "Screened Porch and Steps" on the south face of the dwelling (no new gross floor area)
- 6.) 317 sq. ft. "Hall Connector" on the 2nd floor on the east face of the dwelling.
- 7.) 260 sq. ft. "Above the Garage Addition" vertical expansion on the 2nd floor.
- 8.) 32 sq. ft. "Master Bath Addition" expansion on the 2nd floor on the south face of the dwelling

The applicant is proposing to expand a legal non-conforming primary dwelling located within the 100 ft. Shoreline Development Buffer by approximately 538 sq. ft., or roughly 11.47% of the existing GFA within the Shoreline Development Buffer. Lot coverage for the entire site would increase modestly from 20,424 sq. ft. (5.7%) to 21,180 sq. ft. (5.9%), but within the 15% maximum lot coverage threshold, as set forth in the *Talbot County Code* § 190-136. Staff recommendations include:

1. The Department of Planning and Zoning reminds the Planning Commission that they have the ability to: (1) recommend approval of all of the proposed improvements, (2) recommend approval to a portion(s) of the proposed improvements, or (3) recommend against the approval of the proposed improvements.
2. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
3. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office's 'Notice to Proceed'.
4. Natural vegetation of an area three times the extent of the approved disturbance in the buffer shall be planted in the buffer or on the property if planting in the Buffer cannot be reasonably accomplished. Disturbance outside the buffer shall be 1:1 ratio. A Buffer Management Plan application may be obtained through the Department of Planning and Zoning.

102 Bill Stagg of Lane Engineering attended on behalf of the applicant Charles Webb,
103 as did Tim Kerns of T. B. Kerns Design. Mr. Stagg stated that this project was
104 seen by the Planning Commission about a year and a half ago. He also said that
105 the application is essentially the same, but by comparison, this application
106 proposed substantially less gross floor area. He further commented that the
107 previous application proposed 744 sq. ft. of lot coverage, but this proposal
108 increases that to 756 sq. ft. Mr. Stagg indicated that the owner and Mr. Kerns
109 came up with this new design. Less gross floor area is being proposed on the main
110 water side; most of the work is on the backside of the house. Mr. Stagg agreed
111 with the staff report with the exception of the given distance from the water as 36
112 ft. He stated that it should be 37 ft.
113

114
115 Commissioner Boicourt asked for public comments. Commissioner Fischer
116 requested clarification on the 756 sq. ft. in the Critical Area that Mr. Stagg quoted
117 and the 538 sq. ft. in the staff report. Mr. Stagg explained that the 538 sq. ft. is the
118 increase in gross floor area and that the 756 sq. ft. is the increase in lot coverage.
119 Mr. Fischer also had an issue with 5(e) in the Staff Report, unrelated to this case,
120 which states, “The granting of the variance will not adversely affect water quality
121 or adversely impact fish, wildlife, or plant habitat...” He asked Ms. Deflaux if
122 that was a Talbot County statement or a Critical Area warrant. Ms. Deflaux said
123 that it was a Critical area warrant. Mr. Fischer stated that it was discomforting, in
124 general, since the creation of more impermeable surface would create more
125 runoff. He further stated that if there were fertilization, pesticides, or herbicides,
126 then water quality would be adversely affected. Commissioner Fischer did not
127 have an issue with the second clause of paragraph (e) on page five of the Staff
128 Report.
129

130 Ms. Deflaux stated that the warrant had been in place for a long time. She
131 continued to say that the Buffer Management Plan which will mitigate three times
132 the disturbance in the buffer will be an offset to the adverse water quality impact.
133

134 **Commissioner Fischer moved to recommend to the Planning Officer to**
135 **approve the administrative variance for Charles H. Webb, 22601 River**
136 **Ridge Road, Bozman, Maryland 21612, provided compliance with staff**
137 **recommendations occurs. Commissioner Sullivan seconded the motion. The**
138 **motion carried unanimously.**
139

- 140 b. Brian Tucker—7889 Fuller Road, St Michaels, MD 21663 (map 32, grid 13,
141 parcel 12, zoned Rural Residential), Charles Goebel, Architect, Agent.
142

143 Elisa Deflaux presented the staff report of the applicant’s request to enclose an
144 existing pergola over an impervious deck partially within the 100 ft. Shoreline
145 Development Buffer into a roofed, unconditioned screen porch, with no knee
146 walls. This development activity will not increase the gross floor area (GFA) of
147 the existing dwelling.

Staff recommendations include:

1. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
2. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office's 'Notice to Proceed'.

Architect, Charles Goebel, and Brian Tucker, property owner, appeared before the Commission. They proposed to replace the pergola roof structure with a reinforced structure as weather protection and extend the length of the impervious porch to square off with house; the house was built in 1942. Mr. Goebel stated that the reinforced roof will have roughly the same height as the pergola roof.

Commissioner Boicourt stated that this type of application could be solved at the Planning level.

Commissioner Boicourt asked for public comments; none were made.

Commissioner Spies moved to recommend the approval of the Administrative Variance for Brian F. Tucker, 7889 Fuller Road, St. Michaels, Maryland with staff recommendations; Commissioner Sullivan seconded the motion. The motion carried unanimously.

- c. B & D Sand and Gravel, LLC—1077 Hiners Lane, Easton, MD 21601 (map 17, grid12, parcel 4, zoned Agricultural Conservation), Dave Thompson, Esquire, Agent.

Elisa Deflaux presented the staff report of the applicant's request to the Board of Appeals for a special exception to continue operation of a previously approved 5.1 acre existing surface mine for the extraction of sand and gravel and to expand the mining area by 4.6 acres for a total of 9.7+/- acres.

Staff recommendations include:

1. The Applicant will need to reclaim or apply for a variance of the encroachment into the 200 foot setback for the mineral extraction activities.
2. The Applicant shall obtain current Federal, State, and local permits as applicable.
3. The Applicant shall apply for and comply with the requirements of a Major Site Plan approval from the Talbot County Board of Appeals, Planning Commission, and Planning Office.

- 192 4. The Applicant shall furnish a reclamation plan, along with a surety bond, both
193 in a form acceptable to Talbot County. The bond is to guarantee the
194 completion of the reclamation plan.
195

196 Elizabeth Fink, from Fink Whitten & Associates, along with Donnie Duvall and
197 Matt Browning from B & D Sand and Gravel, LLC, appeared before the
198 Commission. Ms. Fink indicated that they were headed to Board of Appeals on
199 December 19, 2016. She anticipated comments on the site plans from the
200 Planning Office.
201

202 Commissioner Boicourt asked Ms. Fink if she had any trouble complying with
203 any of the four recommendations set forth by the Planning Office. She said she
204 did not have any problems complying with the recommendations except for the
205 reclamation plan; she planned to discuss the issue with Ms. Deflaux to ensure that
206 it complied with what Ms. Deflaux was looking for. Ms. Deflaux stated that the
207 reclamation plan was sent to Soil Conservation.
208

209 Commissioner Fischer asked where the chain link fence stood. Ms. Fink stated
210 that a portion of the chain link fence was in the wooded backside of the pit. Ms.
211 Fink indicated the need to have a discussion with the Board of Appeals about the
212 chain link fence since the applicants did not feel it was necessary to have one in
213 that area.
214

215 Ms. Fink further argued that the chain link fence issue was a recommendation that
216 came from a past special exception years ago that was never implemented.
217 Commissioner Boicourt surmised that the Board of Appeals must have been
218 concerned about the pond due to the presence of homes in that vicinity.
219 Commissioner Boicourt reminded the Planning Commission that it was a good
220 thing to give more reasons and more findings for recommendations; the
221 Commission was encouraged to do so in the past.
222

223 Commissioner Boicourt asked for public comments; none were made.
224

225 **Commissioner Spies moved to approve the special exception for B & D Sand**
226 **and Gravel to continue operation at 10775 Hiners Lane, Easton, MD 21601**
227 **with staff recommendations; Commissioner Spies noted that there was**
228 **nothing out of line with the previous request and that most of the conditions**
229 **that Staff talked about had either been met or were being dealt with.**
230 **Commissioner Fischer seconded the motion. The motion carried**
231 **unanimously.**
232

233 5. Discussions Items 234

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236 **6. Staff Matters**
237

238 Ms. Deflaux stated that Commissioner Spies had been reappointed; his reappointment
239 was applauded. Ms. Deflaux also reminded the Commission that selection of officers will
240 be in January.
241

242 Ms. Deflaux gave an update on the Solar Bill; it was introduced by the County Council.
243 The County Council had a public meeting on December 6, 2016 and addressed a letter of
244 opposition from a lobbying group. The staff was able to address the concerns and justify
245 the language in the Solar Bill. Ms. Deflaux further stated that a public hearing on the
246 Solar Bill will be held on Friday, December 9, 2016 and on Tuesday, December 13, 2016,
247 the Council will vote on the bill.
248

249 Commissioner Boicourt asked what the primary opposition was about. Ms. Deflaux
250 remarked that the lobbying group had questions about some of the regulations.
251

252 Commissioner Councell added that he received a copy of the letter from the lobbyist
253 group; the group objected to the acreage cap of 726 acres. Mr. Councell continued to say
254 that a County Council member stated at the most recent meeting, that there was nothing
255 that would preclude the Council from increasing the cap of 726 acres in the future if the
256 County saw the need. The lobbyist group also objected to the 150 foot setback; the group
257 felt that it was excessive. Mr. Councell explained that the 150 foot setback was subject to
258 change if the affected property owner agreed to file for a lesser amount. The lobbyists
259 were also concerned that the County spoke of agricultural lands in the same light as
260 wetlands and environmentally sensitive areas. Mr. Councell reported that Mary Kay
261 Verdery attended the meeting and addressed all those concerns. Scott Kane also spoke to
262 those issues as well.
263

264 Commissioner Fischer inquired if Commissioner Councell had a sense of what the
265 County Council's position was, in general, on the Solar Bill. Mr. Councell said that the
266 County Council did not give any indication of their inclination with regard to how they
267 will vote on the bill. Mr. Councell stated that he would be surprised if the bill did not
268 pass.
269

270 Commissioner Boicourt stated that he went on a kayak trip last weekend with Rich Hall,
271 the former Planning Secretary under the previous administration, and spent two hours
272 talking about Planning and Zoning. He shared about the discussions he had with Mr. Hall
273 with regards to the time when Mr. Hall was a staffer and worked on the Vienna
274 Conservation Plan. Mr. Boicourt reflected that the Town of Vienna launched a housing
275 development project in which 400 housing units were constructed. Mr. Boicourt pointed
276 out that it was thought to be unreasonable to find occupants for those housing units. With
277 suggestions from State planners, one hundred extra units were added. The plan was
278 carried out and involved almost everyone in the community.
279

Mr. Boicourt was asked why Talbot County did not implement what was done in Vienna as this could work for the Villages. Mr. Boicourt stated that Mr. Rich Hall would be willing to talk with the Planning Commission for thirty minutes about the Historic Conservation Plan in Vienna. Mr. Boicourt expressed his admiration of that particular planning history, and the relationship between State and County, and how the residents of Vienna cared about doing the right thing.

Mr. Boicourt proposed to send out copies of the Vienna project to members of the Planning Commission. Mr. Boicourt further stated that Mr. Hall, since the last administration, referred to the Vienna Project as a digital book burning in the Department of Planning; spark growth is no longer on the agenda. Mr. Boicourt also shared that he, along with Mr. Hall and other colleagues, visited with Mr. Ross Springfield, the Mayor of Vienna and former director of the Wye Research Center; Mr. Brinsfield, who is from the Eastern Shore, bought a house in Vienna as a second home. Mr. Boicourt stated that there is an additional plan called “The Future of the Eastern Shore” that he will be sending out to the Planning Commission. The plan shows how the five counties- Talbot, Caroline, Queen Anne, Kent, and Dorchester will handle growth over the next 30 years. Commissioner Boicourt said that Talbot and Dorchester Counties were in good shape.

Commissioner Fischer did not see the comparison between Talbot County and the town of Vienna as viable. He continued to say that Talbot’s major town had 4,000 acres of designated growth area. Mr. Boicourt explained that the two regions were not directly relatable, but the process was something that Talbot County could envision. He reiterated that the inclusion of the locals and their vision had many parallels with what the Planning Commission had heard from the unincorporated villages in Talbot County.

Mr. Boicourt suggested that such a vision could be the basis of Talbot County’s comprehensive plan if the powers that be were interested. Mr. Boicourt did not advocate discussing the matter any further unless the Commission was interested. He further stated that he would ask Rich Hall to discuss the matter with the Planning Commission since Mr. Hall’s other point of interest was the larger relationship of the state plan and the county. Mr. Boicourt stated that such a relationship was still relevant to Talbot County.

7. Work Sessions

8. Commission Matters

9. Adjournment—Commissioner Boicourt adjourned the meeting at 9:36 a.m.